SAN FRANCISCO DISTRICT

PUBLIC NOTICE

US Army Corps
of Engineers

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 26470N DATE: December 7, 2001
RESPONSE REQUIRED BY: January 6, 2002

PERMIT MANAGER: David A. Ammerman PHONE: 415-977-3037 dammerman@spd02.usace.army.mil

1. **INTRODUCTION:** Mr. Cliff Sorensen of 1040 Aldergrove Road, Arcata, California 95521, through his agent, Winzler & Kelly Consulting Engineers (Contact: Mr. Steve Salzman at 707-443-8326) has applied for a Department of the Army permit to place approximately 3,000 cubic yards of fill in 0.60 acres of waters of the United States (Janes Creek) and adjacent freshwater wetlands, in connection with construction of a 51 unit housing subdivision at St. Louis Road and Spear Road, in the City of Arcata, Humboldt County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** As shown in the attached drawings (See Sheets 1 of 10 through 10 of 10), the applicant plans the following construction activities: (1) reroute a tributary to Janes Creek, (2) fill the abandoned portion of the channel and associated wetland, (3) construct a bridge over the tributary to Janes Creek, (4) widen the channel and remove sediments from Janes Creek, (5) place 70 linear feet of rock slope protection on one side of Janes Creek, (6) raise and widen the existing wing wall of an existing box culvert, (7) construct a storm water detention basin and vegetated swale, (8) Place in-stream boulder clusters for fish habitat, (9) plant riparian trees and wetland vegetation in and adjacent to the modified channels, (10) dedicate 8.9 acres to the City of Arcata for a wetland/creek protection zone, and (11) subdivide the remaining acreage into approximately 51 single and multiple family lots and 3 common parcels that will be owned by the City of Arcata.

Main Channel of Janes Creek (Sheets 2,3, 4, and 7 of 10): (1) Modification of Janes Creek- Janes Creek would be widened to increase its flood water capacity and to create palustrine emergent wetlands adjacent to the low flow channel. All existing vegetation, including canary grass, would be removed from the channel. Approximately 32,000 cubic yards of soil and sediment would be removed from Janes Creek and used as fill for grading the upland portion of the property. Approximately 1,300 linear feet of Janes Creek would be excavated to maximum and minimum channel widths of 180 feet and 80 feet respectively. Maximum and minimum channel depths would be approximately 10 feet and 6 feet respectively. The new channel banks would be sloped at 3 horizontal to 1 vertical up to the site grades.

(2) Wetland vegetation and upland buffer plantings in Janes Creek (Sheet 7 of 10) - The in-channel mitigation wetlands (between the creek and channel banks) would be graded toward the creek at approximately 1%. The wetlands and uplands banks would be vegetated according to the wetland mitigation plan (See "Wetland Impacts and Mitigation" below in this Public Notice). The proposed project would fill 0.60 acres of existing wetlands and create 1.8 acres of mitigation wetlands, not including the detention basin and improvements to existing wetland pond.

(3) Bypass channel and box culvert (Sheet 3 and 4 of 10) - A bypass channel would be constructed around the northwest corner property line in the vicinity of the area labeled as "Modified Culvert Headwall". The purpose of the bypass channel is to pass excess high creek flow during winter storms during occasions when the box culvert has reached flow capacity. The bypass is not a permanent diversion of Janes Creek. Normal creek flows would continue under the modified box culvert. Currently, Janes Creek runs through this concrete culvert underneath a house. A concrete wing wall would be constructed on top of the existing concrete wing wall at the entrance of the box culvert. Fifty cubic yards would be placed to construct the wing wall.

(4) In-stream fish habitat structures (Sheet 4 and 9 of 10) - After Janes Creek is widened and contoured, in-stream fish habitat structures would be installed. The in-stream structures would include a series of three or four boulder clusters (approximately ¼ ton) and tree root wads keyed into the banks of the new low flow channel. Each structure would include three or four boulders and a root wad. Rock jump pools are proposed near where the Humboldt Bay Municipal Water District's water pipe crosses Janes Creek.

(5) Rock slope protection (Sheets 3,4, and 6 of 10): For erosion control and bank stability, 40 cubic yards of rock slope protection would be placed along 70 lineal feet of the right bank of Janes Creek. The rock slope protection would consist of 250 pound rocks about 6 feet tall. The rocks would be placed on the bank at a slope of 1:1, with a base of filter fabric backing, a toe trench, and willow plantings in the rock slope protection interstices.

Tributary to Janes Creek: (Sheets 2,3, and 4 of 10) Sediment and vegetation (approximately 100 cubic yards) would be removed from 500 linear feet of the existing tributary channel between the 18 inch culvert along the northeast edge of the property downstream to where the existing tributary channel would be filled. Eight hundred twenty linear feet of the existing tributary (and adjacent wetlands) would be filled in with approximately 3,000 cubic yards of soil excavated from the widening of Janes Creek. A new tributary channel approximately 1,050 linear feet in length would be created along the eastern and southern boundary of the site to where it will rejoin the existing channel at the confluence of the tributary and Janes Creek. Approximately 6,200 cubic yards of sediment removed to create the new tributary alignment would be placed on the upland portions of the site as part of grading activity for the subdivision. The new tributary channel would be excavated to maximum and minimum channel widths of 60 feet and 35 feet respectively and to maximum and minimum depths of 9 feet and 5 feet respectively. The new tributary channel banks would be sloped at 3 horizontal to 1 vertical up to the site grades. The banks of the tributary channel, as similar to the main channel of Janes Creek, would be planted with wetland and upland buffer species.

Existing Wetland Pond: (Sheets 2,3, and 4 of 10) The existing wetland pond in the southeast corner adjacent to the new tributary channel would also be deepened and modified to create various depths of water and in-pond islands. The intent is to provide additional diversity of aquatic-wildlife habitat and contain open water for longer periods of time after the rainy season ends and to increase its capacity to retain flood waters.

Storm Water Detention Basin: (Sheets 3, 4, and 10 of 10) A detention basin would be constructed at the south end of the property where the existing tributary joins with Janes Creek. The detention basin would be constructed for the purpose of management of stormwater runoff from the subdivision. The dimensions of the detension basin would be 300 feet long, 90 feet wide and approximately 3-4 feet deep. The basin would have a dewatering port and concrete overflow weir intended to maintain a storm water level of approximately 2 feet over the 0.20 acre

bottom area of the basin. Water capacity of the basin is anticipated to be 1.3 million gallons. Approximately 6,000 cubic yards of soil would be excavated to create the detention basin and the excavated material be used on the upland portions of the site for grading of the subdivision area. The side slopes would be 2:1 (fencing would be constructed to keep people from entering the pond) and entry ramp sloped at 15% would be used by heavy equipment to periodically remove sediment from the detention basin. A 20-foot wide vegetated swale constructed around the perimeter of the proposed subdivision would collect storm water and deliver it to the detention basin.

Steel Bridge: (Sheets 3,4, and 8 of 10) Adjacent to the detention basin and where Maple Lane enters the south end of the property, a steel bridge between 40 and 60 feet long would be constructed across the tributary to Janes Creek to provide for pedestrian, bicycle, and emergency vehicle traffic ingress and egress from the south. The bridge would be 12 feet wide and supported by concrete abutments located on the banks of the tributary. This would be a free span bridge allowing free flow of tributary water.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the California Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification. A water quality certification shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act. Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this public notice.

4. WETLAND IMPACTS AND MITIGATION

Wetland Impacts:

Existing on the site is 2.4 acres of waters of the United States including Janes Creek and its tributary below Ordinary High Water, in-stream wetlands, and a one acre wetland pond. Hydrophytic vegetaton dominant within Janes Creek's channel include canary grass (Phalaris arundinacea), small-headed sedge (Scirpus microcarpus), Himalaya berry (Rubus discolor), red top (Agrostis stolonifera), lady fern (Athyrium felix-femina), and creeping buttercup (Ranunculus repens). Dominant hydrophytic vegetation in the tributary to Janes Creek includes water parsley (Oenanthe sarmentosa), northern manna grass (Glyceria occidentalis), creeping buttercup, red top, and water cress (Nasturtium officinale). The seasonally-flooded pond in the southeastern corner of the property is dominated by meadow foxtail (Alopecurus geniculatus), canary grass, lady's thumb (Polygonum persicaria, red top, creeping buttercup, soft rush (Juncus effusus), and curly dock (Rumex crispus).

The above proposed project would result in the discharge of fill into 0.60 acres of freshwater wetland (associated with the existing tributary to Janes Creek) due to filling of the tributary and realignment of the same. Discharge of fill into wetlands and other waters of the United States requires a permit from the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act. The acreage to be impacted exceeds the threshold that would qualify the project under a nationwide permit, therefore, the Corps is processing this application as a standard individual permit.

Wetland Mitigation: The applicant states the target

jurisdictional acreage to be created is approximately 1.8 acres of palustrine wetlands (streamside wetlands and other waters of the United States including the widened Janes Creek channel and new tributary channel). Approximately 0.22 acres of year-round pond would be created in the storm water detention basin. Approximately one acre of the existing seasonal wetland pond would be deepened, lengthening the amount of the time the pond would contain water throughout the year.

The mitigation site is owned by the Sorensen family and the owners would be responsible for wetland mitigation monitoring for at least five years after construction of the project. After grading and planting is completed, an 8.9 acre wetland and creek protection zone containing Janes Creek, the tributary, the wetlands, the seasonal pond, the detention basin, and upland buffer zone would be donated to the City of Arcata. For further details on wetland mitigation at this site, refer to Winzler and Kelly's Wetlands Mitigation and Monitoring Plan dated September 2001. A copy of this plan can be obtained from Winzler and Kelly or the Corps' Eureka Office.

Endangered Species – Janes Creek is historic Spawning and migratory corridor of coho salmon (Oncorhynchus kisutch). The coho salmon are listed as threatened by the National Marine Fisheries Service (NMFS). Janes Creek is also designated as Critical habitat for coho salmon by NMFS. No other Federally-listed anadromous fish re known to have used historically or currently use Janes Creek as a spawning or migratory corridor. On July 26, 1999, the Corps initiated Section 7 consultation pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq) with the NMFS. In a letter dated August 23, 1999, the NMFS concurred with the Corps' determination that the above project (as proposed in 1999) may affect, but would not likely adversely affect coho salmon, nor adversely designated critical habitat for salmon.

The 2001 version of the project description has not changed significantly from the 1999 description with the following exceptions: The number of single and multi-family housing units proposed has dropped from 69 to 51, the amount of wetland fill has been reduced from 0.90 acres to 0.60 acres and the addition of a high flow bypass channel on the northwest corner of the property. Fish habitat instream structures such as boulders, root wads and jump pools are still proposed on Janes Creek and the applicant proposes to dewater Janes Creek during construction and divert flow in accordance with California Department of Fish and Game recommendations. Due to the lack of significant changes to the proposed project that may impact anadramous fisheries in Janes Creek, the Corps has determined that the proposed project may affect, but is not likely to adversely impact coho salmon and its critical habitat and that re-initiation of Section 7 consultation with NMFS regarding the 2001 version of the project is not necessary. However, the Corps will discuss the modifications to the permit application with the NMFS to ensure that NMFS has no concerns regarding the project.

(4) HISTORIC-CULTURAL CHARACTERISTICS AND ANTICIPATED CHANGES

A Corps of Engineers archaeologist will be requested to conduct a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation

Officer to take into account any project effects on such properties.

5. **EVALUATION OF ALTERNATIVES**: An evaluation of this activity's impacts includes application of the guidelines promulgated by the

Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. However, the applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the Guidelines. The applicant states that there are no practicable alternatives for his project. The Analysis of Alternatives is available for review in the Corps' Eureka Office.

6. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. **CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. **SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Eureka Office, U.S. Army Corps of Engineers, P.O. Box 4863, Eureka, California 95502. It is Corps policy to forward any such comments which include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting David Ammerman of our Eureka Office at telephone 707-443-0855 or E-mail: dammerman@spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.